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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|------------------|
| 10/536,465 | 05/25/2005 | Oliver Nohynek | NOHYNEK-1PCT | 4953 |
| 25889 | 7590 | 10/05/2006 | EXAMINER TADESSE, YEWEBDAR T | |
| WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576 | | | ART UNIT 1734 | PAPER NUMBER |

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/536,465 | NOHYNEK, OLIVER |
| | Examiner | Art Unit |
| | Yewebdar T. Tadesse | 1734 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 May 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 5/25/2005.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application
- 6) Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 1-2, applicant claims a coating device for coating "for example, lenticular or granular items". It is unclear that the apparatus is used to coat only lenticular or granular items; or some other items. For the purpose of examination the phrase a coating device for coating "lenticular or granular items" is assumed. In claim 1, lines 5-7, applicant claims "a closable opening...for admission of the uncoated items...into the same and for allowing ...the coated items from the same". There is insufficient antecedent basis for this limitation in the claim. For the purpose of examination "a closable opening...for admission of the uncoated items...into the closable opening and for allowing ...the coated items from the closable opening".

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Long Jr. et al (US 5,494,709) in view of EP 0, 545,065A2.

With respect to claim 1, Long Jr. et al discloses (see Figs 2 and 7) a coating device for coating lenticular or granular items, comprising a drum (46) rotatably mounted about a horizontal axis (the rotational axis of the drum of elevation between 0°-18°, see column 4, lines 27-29) for accommodation of the items during a coating process, a closeable opening (56) in the drum for admission of the uncoated items into the closable opening and for allowing discharge of the coated items from the closable opening, and a spraying device (70) disposed within the drum for coating the items, wherein an unloading device (hopper 82) is provided beneath the drum for removing the coated items, and between the unloading device (82) and the drum (46) there is provided a reciprocatory screening element (lid 84) which can be moved back and forth between a first position screening off the unloading device to a second position opening the unloading device. Long Jr. et al lacks teaching a loading device for filling the item. EP'065 discloses a bucket loader as a loading device. It would have been obvious to

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one of ordinary skill in the art at the time the invention was made to include a loading device in Long Jr. et al to load the material inside the drum for treatment.

As to claim 15, Long Jr. et al discloses a spraying device (77) for the cleaning liquid in the vicinity of the spraying device (70) used for coating the items.

As to claim 18, Long Jr. et al device is capable of successively performing a plurality of iterative coating processes using different coating materials in each case.

6. Claims 1-5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schady (US 3,934,545) in view of EP 0,327,789, Carlson (US 6,582,516) and Ogura et al (US 6,513,659).

As to claims 1-3 and 5, Schady discloses (see Figs 2 and 7) a coating device for coating lenticular or granular items, comprising a drum (10) rotatably mounted about a horizontal axis for accommodation of the items during a coating process, a closable opening (22,24) for admitting coating item and funnel door for unloading item, a spraying device (26) disposed within the drum for coating the items, wherein an unloading device (hopper 88) is provided beneath the drum for removing the coated items. Shady lacks teaching a closable opening for admitting uncoated material and for discharging coated material, a loading device and a screening element for opening and screening off the unloading device, disposed between the unloading device and the drum. However, a tumbling drum using one opening to load the uncoated item and remove the coated item is known in the art; for instance EP'789 discloses (see Figs 6 and 8) an opening (10) used for admitting materials into the drum and discharging

material from the drum. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an opening for admittance and discharge of material in Schady to simplify the apparatus and easily load uncoated material. EP'789 discloses (see Fig 6) a loading device (hopper 41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a loading device in Long Jr. et al to easily load material inside the drum for treatment. Carlson discloses (see Figs 17-18) a screening element (354) which can be moved back and forth between a first position screening off the unloading device to a second position opening the unloading device (350). Ogura et al also discloses (Fig 1) a curved or cylindrical screening element (lid 1) with abutment surface which can be moved back and forth between a first position screening off the unloading device (container 2) to a second position opening the unloading device (2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a screening element which can be moved back and forth between a first position screening off the unloading device to a second position opening the unloading device in Schady to preserve the coated material.

With respect to claim 4, it is within the art of the invention to size the covering of the unloading device to attain perfect fit depending the size of the unloading device or the drum. It would have been obvious to one of ordinary skill in the art at the time the invention was made to size the radius the screening element surrounding the drum in close proximity or a minimum space therebetween to prevent scattering of items during unloading the coated items.

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As to claim 18, Schady's device is capable of successively performing a plurality of iterative coating processes using different coating materials in each case.

7. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schady (US 3,934,545) in view of EP 0,327,789, Carlson (US 6,582,516) and Ogura et al (US 6,513,659) as applied to claim 1 above, and further in view of EP 0,545,065A2. Schady as modified lacks teaching unloading device include a funnel shaped trough with a conveyor belt beneath the funnel-shaped trough. EP'065 discloses (see Fig 1) a funnel opening 13 with item 8 collecting products and a conveyor beneath these elements. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the funnel-shaped trough with a conveyor beneath the trough in Schady to smoothly transfer the material from the drum to the trough and to easily transport the material away from the drum as desired.

8. Claims 6-11 and 12-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: As to claims 6-11, Carlson discloses (see Figs 17-18) pneumatic or solenoid actuators for opening and closing the screening elements (354). Prior art or record does not disclose or suggest, a coating device comprising, among others, a drum and

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an unloading device and a screening element disposed between the drum and the unloading device, wherein a screening element securely attached to at least one roller-mounted guide rail. Carlson discloses (see Figs 17-18) pneumatic or solenoid actuators for opening and closing the screening elements (354). As to claims 12-14, prior art or record does not disclose or suggest a coating device comprising, among others, a drum and an unloading device and a screening element disposed between the drum and the drum, wherein a screening element is connected to a curved toothed rack which cooperates with a motor-driven toothed wheel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4: 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Revechan *✓*

YTT